

105TH CONGRESS  
1ST SESSION

# S. 172

To amend title 18, United States Code, to set forth the civil jurisdiction of the United States for crimes committed by persons accompanying the Armed Forces outside of the United States, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 21, 1997

Mr. DEWINE introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend title 18, United States Code, to set forth the civil jurisdiction of the United States for crimes committed by persons accompanying the Armed Forces outside of the United States, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. CRIMINAL OFFENSES COMMITTED OUTSIDE**  
4                       **THE UNITED STATES BY PERSONS ACCOM-**  
5                       **PANYING THE ARMED FORCES.**

6       (a) IN GENERAL.—Title 18, United States Code, is  
7       amended by inserting after chapter 211 the following new  
8       chapter:

1 **“CHAPTER 212—CRIMINAL OFFENSES**  
 2 **COMMITTED OUTSIDE THE UNITED**  
 3 **STATES**

“Sec.

“3261. Criminal offenses committed by persons formerly serving with, or presently employed by or accompanying, the Armed Forces outside the United States.

“3262. Delivery to authorities of foreign countries.

“3263. Regulations.

“3264. Definitions for chapter.

4 **“§ 3261. Criminal offenses committed by persons for-**  
 5 **merly serving with, or presently em-**  
 6 **ployed by or accompanying, the Armed**  
 7 **Forces outside the United States**

8 “(a) IN GENERAL.—Whoever, while serving with, em-  
 9 ployed by, or accompanying the Armed Forces outside of  
 10 the United States, engages in conduct that would con-  
 11 stitute an offense punishable by imprisonment for more  
 12 than 1 year if the conduct had been engaged in within  
 13 the special maritime and territorial jurisdiction of the  
 14 United States, shall be guilty of a like offense and subject  
 15 to a like punishment.

16 “(b) CONCURRENT JURISDICTION.—Nothing con-  
 17 tained in this chapter deprives courts-martial, military  
 18 commissions, provost courts, or other military tribunals of  
 19 concurrent jurisdiction with respect to offenders or of-  
 20 fenses that by statute or by the law of war may be tried  
 21 by courts-martial, military commissions, provost courts, or  
 22 other military tribunals.

1       “(c) ACTION BY FOREIGN GOVERNMENT.—No pros-  
 2       ecution may be commenced under this section if a foreign  
 3       government, in accordance with jurisdiction recognized by  
 4       the United States, has prosecuted or is prosecuting such  
 5       person for the conduct constituting such offense, except  
 6       upon the approval of the Attorney General of the United  
 7       States or the Deputy Attorney General of the United  
 8       States (or a person acting in either such capacity), which  
 9       function of approval shall not be delegated.

10       “(d) ARRESTS.—

11               “(1) LAW ENFORCEMENT PERSONNEL.—The  
 12       Secretary of Defense may designate and authorize  
 13       any person serving in a law enforcement position in  
 14       the Department of Defense to arrest outside of the  
 15       United States any person described in subsection (a)  
 16       if there is probable cause to believe that such person  
 17       engaged in conduct which constitutes a criminal of-  
 18       fense under subsection (a).

19               “(2) RELEASE TO CIVILIAN LAW ENFORCE-  
 20       MENT.—A person arrested under paragraph (1)  
 21       shall be released to the custody of civilian law en-  
 22       forcement authorities of the United States for re-  
 23       moval to the United States for judicial proceedings  
 24       in relation to conduct referred to in such paragraph  
 25       unless—

1                   “(A) such person is delivered to authorities  
2                   of a foreign country under section 3262; or

3                   “(B) such person has had charges brought  
4                   against him or her under chapter 47 of title 10  
5                   for such conduct.

6   **“§ 3262. Delivery to authorities of foreign countries**

7           “(a) IN GENERAL.—Any person designated and au-  
8           thorized under section 3261(d) may deliver a person de-  
9           scribed in section 3261(a) to the appropriate authorities  
10          of a foreign country in which the person is alleged to have  
11          engaged in conduct described in subsection (a) if—

12               “(1) the appropriate authorities of that country  
13               request the delivery of the person to such country  
14               for trial for such conduct as an offense under the  
15               laws of that country; and

16               “(2) the delivery of such person to that country  
17               is authorized by a treaty or other international  
18               agreement to which the United States is a party.

19           “(b) DETERMINATION BY THE SECRETARY.—The  
20          Secretary of Defense shall determine which officials of a  
21          foreign country constitute appropriate authorities for pur-  
22          poses of this section.

23   **“§ 3263. Regulations**

24           “The Secretary of Defense shall issue regulations  
25          governing the apprehension, detention, and removal of

1 persons under this chapter. Such regulations shall be uni-  
 2 form throughout the Department of Defense.

3 **“§ 3264. Definitions for chapter**

4 “As used in this chapter—

5 “(1) the term ‘Armed Forces’ has the same  
 6 meaning as in section 101(a)(4) of title 10;

7 “(2) a person is ‘employed by the Armed  
 8 Forces outside of the United States’ if the person—

9 “(A) is employed as a civilian employee of  
 10 the Department of Defense, as a Department of  
 11 Defense contractor, or as an employee of a De-  
 12 partment of Defense contractor;

13 “(B) is present or residing outside of the  
 14 United States in connection with such employ-  
 15 ment; and

16 “(C) is not a national of the host nation;  
 17 and

18 “(3) a person is ‘accompanying the Armed  
 19 Forces outside of the United States’ if the person—

20 “(A) is a dependent of a member of the  
 21 armed forces;

22 “(B) is a dependent of a civilian employee  
 23 of the Department of Defense;

24 “(C) is residing with the member or civil-  
 25 ian employee outside of the United States; and

1 “(D) is not a national of the host nation.”

2 (b) CLERICAL AMENDMENT.—The table of chapters  
3 at the beginning of part II of title 18, United States Code,  
4 is amended by inserting after the item relating to chapter  
5 211 the following:

**“212. Criminal Offenses Committed Outside the United  
States ..... 3261”.**

6 **SEC. 2. MILITARY JUSTICE ACTIONS.**

7 (a) DEFINITION.—For purposes of this section, the  
8 term “Director” means the Director of the Federal Bu-  
9 reau of Investigation.

10 (b) RECORDS OF MILITARY JUSTICE ACTIONS.—At  
11 the time that a member of the Armed Forces is discharged  
12 from a period of service in the Armed Forces or is released  
13 from a period of active duty service in the Armed Forces,  
14 the Secretary of the military department having jurisdic-  
15 tion of the armed force of the member shall transmit to  
16 the Director a copy of records of any penal actions taken  
17 against the member under chapter 47 of title 10, United  
18 States Code (the Uniform Code of Military Justice), dur-  
19 ing that period.

20 (c) DNA ANALYSIS.—

21 (1) SAMPLES REQUIRED.—Any person who is  
22 convicted of a crime of a sexual nature under the

1 Uniform Code of Military Justice shall, prior to mili-  
2 tary discharge, transmit to the Secretary of the mili-  
3 tary department having jurisdiction of the armed  
4 force of the member, a sample of blood, saliva, or  
5 other specimen collected from that person necessary  
6 to conduct DNA analysis consistent with established  
7 procedures for DNA testing by the Director.

8 (2) TRANSMISSION TO FBI.—Each sample  
9 transmitted under paragraph (1) shall be transmit-  
10 ted by the Secretary described in that paragraph in  
11 a timely manner to the Director for inclusion in the  
12 Combined DNA Identification System (CODIS) of  
13 the Federal Bureau of Investigation.

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